

THOMAS, ALITO AND CHRISTMAS COOKIES

You have heard about the private jet and yacht trips given to Clarence Thomas, the jet trips given to Samuel Alito, etc. The stories of this type of absolute impropriety are seemingly endless.

Senior Massachusetts District Judge Michael Ponsor has penned an op-ed in today's New York Times: in which he discusses the acceptable limits of what federal judges can take as gift. It is quite good and not very long, I'd suggest a read of it.

What has gone wrong with the Supreme Court's sense of smell?

I joined the federal bench in 1984, some years before any of the justices currently on the Supreme Court.

Throughout my career, I have been bound and guided by a written code of conduct, backed by a committee of colleagues I can call on for advice. In fact, I checked with a member of that committee before writing this essay.

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The recent descriptions of the behavior of some of our justices and particularly their attempts to defend their conduct have not just raised my eyebrows; they've raised the whole top of my head. Lavish, no-cost vacations?

Hypertechnical arguments about how a free private airplane flight is a kind of facility? A justice's spouse prominently involved in advocating on issues before the court without the justice's recusal? Repeated omissions in mandatory financial disclosure statements brushed under the rug as inadvertent? A justice's taxpayer-financed staff reportedly helping to promote her books? Private school

tuition for a justice's family member covered by a wealthy benefactor? Wow.

This is FAR beyond "the appearance of impropriety", it is actual impropriety. Any judge and/or lawyer with even an ounce of ethics knows this, and it is patently obvious. It is wrong.

Let me give you an analogy that demonstrates how absurd Thomas and Alito really are.

Many, many years ago, a junior partner in our firm decided to be nice to the local county level judges we practiced in front of. So she got a bunch of boxes of Christmas cookies from a local custom cookie place and tried to deliver them to the pertinent judges for Christmas. They were just local superior court judges, not SCOTUS level. They turned them down, and there were a bunch of cookies suddenly in our kitchen and lounge.

There were a lot of attorneys, including me, both prosecution and defense, that used to drink at a local downtown dive bar after 5 pm. Judges, both federal and state, came in too. The lawyers always swapped rounds. But not the judges, they always paid for their own.

Nobody in the world would have carped about it if the judges would have eaten the cookies, nor had the judges gotten a free drink. They just did not. It was pretty admirable.

And now, when such things should be far more apparent, we have a Supreme Court that thinks they are entitled to the graft and grift. Do I think that makes them "corrupt" per se? I do not know that, we shall see how it all plays out further.